

## REMARKS

In accordance with the foregoing, the title and claims 1, 2 and 15-21 are amended. Claims 1-21 are pending and under consideration.

### CLAIM OBJECTIONS

The title is amended in response to the objection.

Claim 1 is amended herewith to correct the noted typographical error.

### CLAIM REJECTIONS UNDER 35 U.S.C. §101

The preambles of claims 15-21 are amended herewith to overcome the rejection. These claims are now directed to "a computer readable medium storing a program for creating an image processing program, which program when executed on a computer controls the computer to execute ..." which is structurally and functionally interrelated to the recording medium and thereby statutory subject matter. In view of the claim amendments, Applicants respectfully request withdrawal of the rejection.

### CLAIM REJECTION UNDER 35 U.S.C. §102

Claims 1-3, 5-10, 12-17, and 19-21 are rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 6,957,350 to Demos (hereinafter "Demos").

Independent claim 1 is directed to an apparatus for creating an image processing program having a program selecting unit, an area selecting unit and a program inserting unit.

Demos discloses a method and apparatus for image compression using temporal and resolution layering of compressed image frames, and which provides encryption and watermarking capabilities (see Abstract). Demos focuses on a **watermark** being inserted into **video data** at the time of encryption. In contrast, the claims of the current application refer to inserting a **watermarking program** "inserting electronic watermark data into moving image data that are encrypted" into a **processing program** that performs decrypting, expanding, or both decrypting and expanding the moving image data." Demos' disclosure relative to watermarking encoded video data does not render obvious watermarking the decoded video data. For example, while Demos enables determining original data from which illegal copies were produced, inserting a watermarking program into a processing program that performs decryption

and/or expansion of image data enables identifying a terminal from which illegal copies of the image data were produced.

Demos does not anticipate “a program selecting unit that selects at least one watermarking program from among a plurality of watermarking programs for inserting electronic watermark data into moving image data that are encrypted, compressed, or both encrypted and compressed.” The Office Action indicates Step 1400 of FIG. 14 of Demos as providing relevant disclosure relative to the program selecting unit. FIG. 14 is a flowchart showing one method of applying the watermarking techniques. At step 14, a unit to be watermarked is selected (see col. 28, lines 15-19). The term “unit” is used to designate a unit of video information (see, for example, col. 22 line 63 to col. 23, line 16). In other words, in Demos, step 1400 of FIG. 14 the video data to be watermarked is selected and not a watermark program as recited in claim 1. That is, Demos selects the image data to be watermarked, while the program selecting unit of claim 1 selects a “watermarking program from among a plurality of watermarking programs.”

Moreover, Demos does not anticipate “an area selecting unit that selects at least one area for inserting the selected program from among a plurality of areas in a processing program that performs decrypting, expanding, or both decrypting and expanding the moving image data.” The portion of Demos (col. 22, lines 55-60) indicated in the Office Action as relevant relative to the area selecting unit discusses which frames from image data should be preferably watermarked (i.e., a location in the image data where to insert a watermark). In contrast, the selecting unit of claim 1 selects a location (i.e., an area) in a processing program where the program inserting unit is going to insert the watermarking program.

Finally, Demos does not anticipate “a program inserting unit that inserts the watermarking program selected into the area selected.” In Demos, a **watermark** is inserted at a selected location **into the image** (i.e. video) **data**. The program inserting unit inserts a **watermarking program** **into a processing program**.

Therefore, Demos fails to teach or suggest every feature recited in claim 1, so that claim 1 and claims 2-7 depending from claim 1 are patentable. Accordingly, Applicant respectfully traverses, and requests reconsideration of the rejection based on Demos.<sup>1</sup>

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<sup>1</sup> See MPEP 2131: "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," (Citations omitted) (emphasis added). See also MPEP 2143.03: "All words in a claim must be considered in judging the patentability of that claim against the prior art."

Based on the above discussion of Demos' disclosure, independent claim 8 and claims 9-14 depending from claim 8 are patentable because Demos fails to anticipate the following recitations of claim 8:

- selecting at least one **watermarking program** from among a plurality of watermarking programs for inserting electronic watermark data into moving image data that are encrypted, compressed, or both encrypted and compressed;
  - selecting at least one **area** from among a plurality of areas **in a processing program** that performs decrypting, expanding, or both decrypting and expanding the moving image data; and
- **inserting the watermarking program selected into the area selected** (emphasis ours).

Similarly, independent claim 15 and claims 16-21 depending from claim 15 are patentable because Demos fails to anticipate the following recitations of claim 15:

- selecting at least one **watermarking program** from among a plurality of watermarking programs for inserting electronic watermark data into moving image data that are encrypted, compressed, or both encrypted and compressed;
- selecting at least **one area** from among a plurality of areas **in a processing program** that performs decrypting, expanding, or both decrypting and expanding the moving image data; and
- **inserting the watermarking program selected into the area selected** (emphasis ours).

### **CLAIM REJECTION UNDER 35 U.S.C. §103**

Claims 4, 11, and 18 are rejected under 35 U.S.C. §103(a) as unpatentable over Demos in view of U.S. Patent No. 6,236,727 to Ciacelli et al. ("Ciacelli").

Ciacelli does not correct or compensate for the above-identified failure of Demos to anticipate all the features of the independent claims. Thus, claims 4, 11, and 18 patentably distinguishes over Ciacelli and Demos at least by inheriting patentable features from independent claims 1, 8, and 15, respectively.

**CONCLUSION**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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